

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Truth-in-Billing
and
Billing Format

CC Docket No. 98-170

Petition for Temporary, Limited Waiver

Coastal Utilities, Inc. ("Coastal"),¹ by counsel, hereby seeks temporary, limited waiver of the Truth-in-Billing ("TIB") requirements established by the Federal Communications Commission ("Commission" or "FCC") in its First Report and Order and Further Notice of Proposed Rulemaking in the above-captioned matter.² Specifically, Coastal seeks temporary waiver of the requirements of Section 64.2401(b) regarding description of charges (the "TIB Description Requirement")³ and Section 64.2401(d) regarding disclosure of inquiry contacts (the

¹ Attachment A contains the declaration of Edward L. Haymans, Vice President of Coastal. The declaration bears a facsimile signature. The original signed declaration will be filed upon receipt by counsel.

² In the Matter of Truth-in-Billing and Billing Format, First Report and Order and Further Notice of Proposed Rulemaking, CC Docket No. 98-170, FCC 99-72, released May 11, 1999, 64 Fed. Reg. 34488 (June 25, 1999) ("TIB Order"); Errata, CC Docket No. 98-170, DA 99-2092, released October 6, 1999.

³ 47 C.F.R. § 64.2401(b) states that:

Charges contained on telephone bills must be accompanied by a brief, clear, non-misleading, plain language description of the service or services rendered. The description must be sufficiently clear in presentation and specific enough in content so that customers can accurately assess that the services for which they are billed correspond to those that they have requested and received, and that the costs assessed for those services conform to their understanding of the price charged.

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"TIB Inquiry Contact Requirement")⁴(collectively, the "TIB Requirements"). Coastal seeks this waiver until April 1, 2000.

Coastal, which is not a member of the United States Telecom Association ("USTA"), recognizes that a pending Petition filed by USTA⁵ seeks similar relief for USTA member companies, and would not otherwise cover Coastal unless the relief sought was applied to all carriers as USTA has suggested.⁶ Moreover, Coastal recognizes that a pending Joint Petition filed by the National Exchange Carrier Association, Inc., the National Telephone Cooperative Association, and the Organization for the Promotion and Advancement of Small Telecommunications Companies, Inc. (collectively the "Associations") also seeks similar relief for their member companies. Accordingly, in the event that action on the USTA Petition and/or the Associations' Petition does not grant the extent of the relief requested herein, Coastal requests a waiver of the TIB Requirements until April 1, 2000.

Until the requested waiver expires, Coastal will work on necessary the necessary software billing system changes in order to comply with the TIB Requirements. Moreover, even after

⁴ 47 C.F.R. § 64.2401(d) states that

Telephone bills must contain clear and conspicuous disclosure of any information that the customer may need to make inquiries about, or contest charges, on the bill. Common carriers must prominently display on each bill a toll-free number or numbers by which customers may inquire or dispute any charge contained on the bill. A carrier may list a toll-free number for a billing agent, clearinghouse, or other third party, provided that such party possesses sufficient information to answer questions concerning the customer's account and is fully authorized to resolve consumer complaints on the carrier's behalf. Each carrier must make its business address available upon request to consumers through its toll-free number.

⁵ See Public Notice, DA 99-1616, released August 13, 1999.

⁶ See Reply Comments of USTA, CC Docket No. 98-170, filed September 10, 1999 at 2.

the waiver expires, Coastal's customer representatives will continue to provide assistance to customers with questions concerning charges from particular carriers and for particular services. Accordingly, Coastal respectfully submits that these actions will ensure that the underlying public interest objectives of the TIB Requirements will be advanced during the time that the requested waiver is in effect.

I. Background

Coastal provides exchange and exchange access services to approximately 38,000 lines in Georgia. Coastal is a rural telephone company under the Communications Act of 1934, as amended. Coastal relies upon its internal resources for billing system services (i.e., software and support) as well as an outside software contractor. When this system requires modifications (e.g., in order to address regulatory or other issues), Coastal works in conjunction with its outside contractor to perform such modifications, including all necessary software modifications. In early October, 1999, Coastal began addressing the various TIB requirements. Upon its initial review, Coastal believed its bills would be in compliance. Upon further investigation, however, Coastal now realizes that its initial assessment was incorrect and that modifications to its billing system to provide the additional bill detail required by the TIB Requirements are now necessary. Based on its clearer understanding of the requirements, Coastal has begun the process of developing the software required by it to comply with the TIB Requirements. Coastal is in the process of identifying all required billing software system changes, and anticipates the need to coordinate such activities with its billing clearinghouses for casual calling and alternate service providers (collectively referred to as "AOS providers"), i.e., carriers other than the presubscribed "1+" carrier of the customer. Based on its assessment, Coastal anticipates that

the necessary software modifications and testing should be completed and properly tested by April 1, 2000. Accordingly, the practical problems and existing billing software system limitations confronting Coastal associated with implementing the TIB Requirements make compliance by the November 12, 1999 effective date infeasible.⁷

A. Compliance Issues with Respect to the TIB Inquiry Contact Requirement

The need for the temporary, limited waiver of the TIB Inquiry Contact Requirement arises in connection with Coastal's billing for charges from AOS providers. Coastal receives data from the AOS provider's clearinghouse. Coastal's bill section containing these calls may identify one or, at times, several different AOS providers based on the customer's decision to make a casual call or to use an alternative service provider in a given billing cycle.⁸ The charges that Coastal receives are sorted by customer and by date and time of that customer's usage. While Coastal's existing billing system software sorts these call records by AOS provider and places the name of such provider on the bill, the software is not capable of placing the AOS provider's toll free number on the bill.⁹ As a result, the necessary software modifications must accommodate varying levels of screening and identification of an AOS provider as well as provide the contact number of the AOS provider. These demands will, in turn, affect the

⁷ See 64 Fed. Reg. 55163 (Oct. 12, 1999); see also Public Notice, DA 99-2030 (Sept. 30, 1999) and Public Notice, DA 99-1789 (Sept. 2, 1999).

⁸ Based on a representative month's sample, Coastal notes that the majority of its customers do not make calls carried by AOS providers.

⁹ Although Coastal typically has the authority to issue credits to customers for AOS charges, the AOS providers may, independently, seek payment of those charges from customers. Accordingly, Coastal is not "fully authorized to resolve consumer complaints on the carrier's behalf." 47 C.F.R. § 64.2401(d). Moreover, in Coastal's experience, customer inquiries regarding AOS provider charges are minimal.

processing time associated with rendering the bill.

Although Coastal will be working on both acquiring the contact information from the clearinghouses and the software modifications required to update its billing system, testing will need to occur when these updates are completed in order to ensure TIB rule compliance. Accordingly, it will be technically infeasible for Coastal to comply with the November 12, 1999 date by which the TIB Inquiry Contact Requirement is scheduled to go into effect. Consistent with the implementation of other TIB-required billing software changes, Coastal submits that compliance with this TIB rule should be possible by April 1, 2000.

B. Compliance Issues with Respect to the TIB Description Requirement

With respect to the TIB Description Requirement, Coastal is now in the process of developing the software necessary to disaggregate the charges and the services that are included within the existing bill's charge for local service. Currently, charges for additional local features (e.g., custom calling features) are aggregated with the charge for Coastal's local service. Moreover, no description of these additional features is provided. Once the software upgrade is fully developed to comply with the TIB Description Requirement, Coastal will then test the bills in an effort to ensure compliance with the FCC's standard that service descriptions must contain "brief, clear, non-misleading, plain language."¹⁰ Even in the absence of this additional bill detail, however, Coastal notes that it has had minimal customer complaints regarding its charges for local services.

As with TIB Inquiry Contact Requirement, Coastal can not complete the necessary software modifications and successfully test such software by November 12, 1999. Coastal

¹⁰ 47 C.F.R. § 64.2401(b).

anticipates, however, that it can accomplish these tasks by April 1, 2000.

II. Good Cause Exists for and the Public Interest will be Served by a Grant of this Limited Waiver

Based on these facts and circumstances, Coastal respectfully submits that good cause exists for a grant of this limited waiver, and that the public interest will be served by such action. As demonstrated herein, Coastal will be undertaking substantial efforts to comply with the TIB Requirements. Moreover, even after the software upgrades are developed, Coastal will need additional time to successfully test such upgrades and coordinate those efforts with its billing clearinghouses. Coastal anticipates, however, that compliance with the TIB Requirements should be possible by April 1, 2000. Accordingly, for the reasons stated, good cause exists for this waiver.¹¹

Coastal also respectfully submits that the public interest would be served by grant of this request. First, the Commission has recognized the need to balance the implementation of new regulatory directives which affect computerized systems with on-going Year 2000 activities.¹² The software changes required by Coastal clearly fall into this Commission-defined category.

¹¹ "The Commission may exercise its discretion to waive a rule where particular facts would make strict compliance inconsistent with the public interest." WAIT Radio v. FCC, 418 F.2d 1153, 1159 (D.C. Cir. 1969). Waiver of a Commission rule is appropriate where (1) the underlying purpose of the rule will not be served, or would be frustrated, by its application in a particular case, and grant of the waiver is otherwise in the public interest, or (2) unique facts or circumstances render application of the rule inequitable, unduly burdensome or otherwise contrary to the public interest, and there is no reasonable alternative. Northeast Cellular Telephone Co., L.P. v. FCC, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

¹² See In the Matter of Minimizing Regulatory and Information Technology Requirements That Could Adversely Affect Progress Fixing the Year 2000 Date Conversion Problem, Year 2000 Network Stabilization Policy Statement, FCC 99-272, released October 4, 1999 ("Year 2000 Policy Statement") at para. 15.

The Commission's concerns regarding utilization of its Year 2000 Policy Statement to "forestall" or "roll back" disfavored regulations, or use this policy for purposes of competitive advantage"¹³ are not applicable here. Coastal will work toward TIB compliance and seeks only a limited extension of time that is otherwise consistent with the underlying objectives which justified the Commission-prescribed compliance date of certain other TIB rules. Accordingly, there is no basis to conclude that Coastal is attempting to "forestall" or "roll back" disfavored regulations. In addition, there is no "competitive advantage" associated with this request. A grant of this waiver does not affect a competitor of the Coastal; rather it allows an interim measure to be implemented that allows continuation of existing billing arrangements.

Second, the Commission has already determined that the April 1, 2000 date is appropriate for implementing other TIB rules.¹⁴ Accordingly, the ability of Coastal to continue to work toward the April 1, 2000 implementation date for all TIB rules would ensure efficiency and continuity in the necessary enhancements of its billing system capability without incurring unnecessary expenditures or jeopardizing Year 2000 compliance issues.

Third, the underlying goal of the TIB Requirements -- the ability of a customer to identify charges and inquire about a charge -- would not be frustrated by a grant of the requested waiver. As is done today, even after the requested waiver expires, Coastal will continue to provide customer service assistance regarding billing inquiries and questions. Coastal will also continue to provide its local telephone number on the bill in order to allow customers to contact it about AOS provider charges. When a customer questions an AOS provider charge, Coastal

¹³ Id. at para. 16.

¹⁴ See n. 6, supra.

will, at the customer's option, provide the AOS provider's toll free number or will seek to establish a three-way conference call with the AOS provider (or its billing clearinghouse) in order that the customer may address his/her concern about a charge. Accordingly, the goal of the TIB Requirements will be advanced. Waiver of the TIB Requirements as requested herein will merely maintain the status quo until such time as the billing system modifications are made and successfully tested, while effecting the goals of these requirements in an alternative manner.

Finally, Coastal notes that, in the absence of this limited waiver of the TIB Requirements, its ability to bill for isolated customer-originated traffic on behalf of AOS providers would be in jeopardy. Facing the risk of non-compliance with the TIB Inquiry Contact Requirement, Coastal may be forced to consider terminating its billing relationship with the AOS providers. This, in turn, may increase the cost to the AOS provider of billing, thereby inhibiting the continued development of a competitive interexchange service marketplace.

Even assuming that harm to the public interest is present, that harm does not outweigh the public interest benefits arising from a grant of this request. As indicated, Coastal's customer concerns over charges for either Coastal's local services or for AOS providers have been minimal. Moreover, Coastal anticipates that its experience will not change during the time that the requested waiver is in place.

III. Conclusion

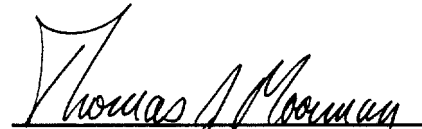
Because Coastal is technically incapable of complying with the TIB Requirements by November 12, 1999, a grant of this request until April 1, 2000 will ensure that Coastal can implement and successfully test the billing system software upgrades required to implement the TIB Requirements in an efficient manner, while avoiding unnecessary expense or raising additional Year 2000 compliance issues. At the same time, the consumer goals of these TIB rules will not be frustrated by a grant of this request. Rather, such goals will be furthered by Coastal as it continues to provide customer assistance and responsiveness when questions are received regarding charges from particular carriers.

Accordingly, in the event that action on the USTA Petition and/or the Associations' Petition does not grant the extent of the relief requested herein, Coastal requests a waiver of the requirements of 47 C.F.R. §§ 64.2401(b) and 64.2401(d) until April 1, 2000.

Respectfully submitted,

Coastal Utilities, Inc.

By



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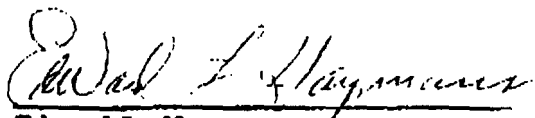
November 12, 1999

**Declaration of Edward L. Haymans
Vice President of
Coastal Utilities, Inc.**

I, Edward L. Haymans, Vice President of Coastal Utilities, Inc. ("Coastal"), do hereby declare under penalties of perjury that I have read the foregoing "Petition for Temporary, Limited Waiver" and the information contained therein regarding Coastal is true and accurate to the best of my knowledge, information, and belief.

Date

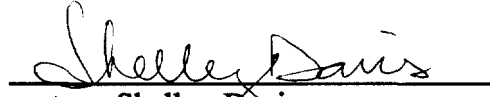
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A handwritten signature in cursive script, appearing to read "Edward L. Haymans", written over a horizontal line.

**Edward L. Haymans
Vice President**

CERTIFICATE OF SERVICE

I, Shelley Davis, of Kraskin, Lesse & Cosson, LLP, 2120 L Street, NW, Suite 520, Washington, DC 20037, hereby certify that a copy of the foregoing "Petition for Temporary, Limited Waiver" of Coastal Utilities, Inc. was served on this 12th day of November, 1999 by hand delivery to the following parties:


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